

Practitioner's Docket No. SP-1093

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re prior application of: Wong et al.

Application No.: 08 / 996,976      Group No.: 1651  
Filed: 12/23/97      Examiner: Ware, D.  
For: Ultrapure Vegetable Protein Material

Assistant Commissioner for Patents  
Washington, D.C. 20231

**APPLICATION DATA SHEET**  
**37 C.F.R. § 1.76**

NOTE: 37 C.F.R. § 1.76(a): "Application data sheet. An application data sheet is a sheet or sheets, that may be voluntarily submitted in either provisional or nonprovisional applications, which contains bibliographic data, arranged in a format specified by the Office. If an application data sheet is provided, the application data sheet is part of the provisional or nonprovisional application for which it has been submitted."

**BIBLIOGRAPHIC DATA**

**1. Applicant Information**

NOTE: 37 C.F.R. § 1.76(b)(1): "(1) Applicant information. This information includes the name, residence, mailing address, and citizenship of each applicant (§ 1.41(b)). The name of each applicant must include the family name, and at least one given name without abbreviation together with any other given name or initial. If the applicant is not an inventor, this information also includes the applicant's authority (§§ 1.42, 1.43, and 1.47) to apply for the patent on behalf of the inventor."

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**CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10**  
(When using Express Mail, the Express Mail label number is mandatory;  
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Melanie D. Schacht  
Signature

Date: 7/24/01

Melanie D. Schacht  
(type or print name of person certifying)

First applicant:

Theodore M. Wong  
GIVEN NAME MIDDLE INITIAL OR NAME FAMILY (OR LAST NAME)  
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Second applicant, (if any)

David A. Singer  
GIVEN NAME MIDDLE INITIAL OR NAME FAMILY (OR LAST NAME)  
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St. Louis, MO 63112

Third applicant, (if any)

Santa H. Lin (Deceased)  
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Town & Country, MO 63017

Fourth applicant, if any

GIVEN NAME MIDDLE INITIAL OR NAME FAMILY (OR LAST NAME)  
Citizenship   
Residence

Fifth applicant, (if any)

GIVEN NAME MIDDLE INITIAL OR NAME FAMILY (OR LAST NAME)  
Citizenship   
Residence

Sixth applicant, (if any)

GIVEN NAME MIDDLE INITIAL OR NAME FAMILY (OR LAST NAME)  
Citizenship   
Residence

- ☒ Applicant is not the inventor and applicant's authority (§§ 1.42, 1.43 and 1.47) to apply for the patent on behalf of the inventor is as follows:

Assignment which will be submitted later

## 2. Correspondence information

NOTE: 37 C.F.R. § 1.76(b)(2): "(2) Correspondence information. This information includes the correspondence address, which may be indicated by reference to a customer number, to which correspondence is to be directed (see § 1.33(a))."

Correspondence for this application should be addressed as follows:

Name: Richard B. Taylor

Address: P. O. Box 88940

St. Louis, MO 63188

☐ Customer No.: \_\_\_\_\_

## 3. Application information.

NOTE: 37 C.F.R. § 1.76(b)(3): "Application information. This information includes the title of the invention, a suggested classification, by class and subclass, the Technology Center to which the subject matter of the invention is assigned, the total number of drawing sheets, a suggested drawing figure for publication (in a nonprovisional application), any docket number assigned to the application, the type of application (e.g., utility, plant, design, reissue, provisional), whether the application discloses any significant part of the subject matter of an application under a secrecy order pursuant to § 5.2 of this chapter (see § 5.2(c)), and, for plant applications, the Latin name of the genus and species of the plant claimed, as well as the variety denomination. The suggested classification and Technology Center information should be supplied for provisional applications whether or not claims are present. If claims are not present in a provisional application, the suggested classification and Technology Center should be based upon the disclosure."

Title of Invention: Ultrapure Vegetable Protein Material

Docket number assigned to this application: SP-1093.3

Suggested Classification: Class: \_\_\_\_\_

Subclass: \_\_\_\_\_

Technology Center to which subject matter is assigned: \_\_\_\_\_

NOTE: "The suggested classification and Technology Center information should be supplied for provisional applications whether or not claims are present. If claims are not present in a provisional application, the suggested classification and Technology Center should be based upon the disclosure." 37 C.F.R. § 1.76(b)(3).

Total number of drawing sheets:

Type of application:

☒ utility

☒ application is to be published

Suggested drawing figure for publication: \_\_\_\_\_

☐ application is not to be published

☐ plant

☐ Latin names of the genus \_\_\_\_\_  
species \_\_\_\_\_

of plant being claimed.

☐ design

☐ reissue

☐ provisional

Secrecy order under § 5.2:

This application

☒ does not disclose

☐ discloses a significant part of the

subject matter of an application which is under a secrecy order pursuant to § 5.2.

#### 4. Representative information

**NOTE:** 37 C.F.R. § 1.76(b)(4) states: "Representative information. This information includes the registration number of each practitioner having a power of attorney or authorization of agent in the application (preferably by reference to a customer number). Providing this information in the application data sheet does not constitute a power of attorney or authorization of agent in the application (see § 1.34(b))." (Emphasis added).

The following have a power of attorney or authorization of agent in this application:

Name of attorney (agent): Richard B. Taylor

Address: P. O. Box 88940  
St. Louis, MO 63188

Customer No.: \_\_\_\_\_

#### 5. Domestic Priority information

**NOTE:** "Domestic priority information. This information includes the application number, the filing date, the status (including patent number if available), and relationship of each application for which a benefit is claimed under 35 U.S.C. 119(e), 120, 121, or 365(c). Providing this information in the application data sheet constitutes the specific reference required by 35 U.S.C. 119(e) or 120, and § 1.78(a)(2) or § 1.78(a)(4), and need not otherwise be made part of the specification." 37 C.F.R. § 1.76(b)(5).

☒ Domestic priority for this application is claimed as follows:

☐ 35 U.S.C. § 119(e): Application No.: \_\_\_\_\_

Filed: \_\_\_\_\_

Status: \_\_\_\_\_

Relationship: \_\_\_\_\_

- ☒ 35 U.S.C. § 120: Application No.: 08/996,976  
Filed: 12/23/97  
Status: Pending  
Relationship: Parent
- ☐ 35 U.S.C. § 121: Application No.: \_\_\_\_\_  
Filed: \_\_\_\_\_  
Status: \_\_\_\_\_  
Relationship: \_\_\_\_\_
- ☐ 35 U.S.C. § 365(c): Application No.: \_\_\_\_\_  
Filed: \_\_\_\_\_  
Status: \_\_\_\_\_  
Relationship: \_\_\_\_\_

## 6. Foreign priority information

**NOTE:** "Foreign priority information. This information includes the application number, country, and filing date of each foreign application for which priority is claimed, as well as any foreign application having a filing date before that of the application for which priority is claimed. Providing this information in the application data sheet constitutes the claim for priority as required by 35 U.S.C. 119(b) and § 1.55(a)." 37 C.F.R. § 1.76(b)(6).

**WARNING:** Section 1.55(a) provides (1) that in an original application filed under 35 U.S.C. 111(a) (other than a design application) the claim for priority must be presented during the pendency of the application, and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application; (2) in an application that entered the national stage from an international application after compliance with 36 U.S.C. 371, the claim for priority must be made during the pendency of the application and within the time limit set forth in the PCT and the Regulations under the PCT.

- ☐ Foreign priority is claimed for this application as follows:

Country: \_\_\_\_\_  
Application No.: \_\_\_\_\_  
Filing date: \_\_\_\_\_  
Status: \_\_\_\_\_

Foreign application having a filing date before that of the above application for which priority is claimed.

☐ None

☐ Country: \_\_\_\_\_

Application No.: \_\_\_\_\_

Filing date: \_\_\_\_\_

Status: \_\_\_\_\_

## 7. Assignee information

**NOTE:** 37 C.F.R. § 1.76(b) "Assignee information. This information includes the name (either person or juristic entity) and address of the assignee of the entire right, title, and interest in an application. Providing this information in the application data sheet does not substitute for compliance with any requirement of part 3 of this chapter to have an assignment recorded by the Office."

**NOTE:** 37 C.F.R. § 1.215(b): "(b) If applicant wants the patent application publication to include assignee information, the applicant must include the assignee information on the application transmittal sheet or the application data sheet (§ 1.76). Assignee information may not be included on the patent application publication unless this information is provided on the application transmittal sheet or application data sheet included with the application on filing. Providing this information on the application transmittal sheet or the application data sheet does not substitute for compliance with any requirement of part 3 of this chapter to have an assignment recorded by the Office."

The assignee(s) of this application is/are:

Name of assignee: Protein Technologies International, INC.

Address of assignee: P. O. Box 88940, St. Louis, MO 63188

Extent of interest of assignee in application: 100%

Reg. No. 37,248

Tel. No. (314) 982 3004

Customer No.



Signature of Practitioner

Richard B. Taylor

(type or print name of practitioner)

P. O. Box 88940

P.O. Address

St. Louis, MO 63188

**ADDED PAGES FOR APPLICATION TRANSMITTAL WHERE BENEFIT OF  
PRIOR U.S. APPLICATION(S) CLAIMED**

NOTE: See 37 C.F.R. § 1.78.

**17. Relate Back**

**WARNING:** If an application claims the benefit of the filing date of an earlier filed application under 35 U.S.C. § 120, 121 or 365(c), the 20-year term of that application will be based upon the filing date of the earliest U.S. application that the application makes reference to under 35 U.S.C. § 120, 121 or 365(c). (35 U.S.C. § 154(a)(2) does not take into account, for the determination of the patent term, any application on which priority is claimed under 35 U.S.C. § 119, 365(a) or 365(b).) For a c-i-p application, applicant should review whether any claim in the patent that will issue is supported by an earlier application and, if not, the applicant should consider canceling the reference to the earlier filed application. The term of a patent is not based on a claim-by-claim approach. See Notice of April 14, 1995, 60 Fed. Reg. 20,195, at 20,205.

(complete the following, if applicable)

- ☐ Amend the specification by inserting, before the first line, the following sentence:

**A. 35 U.S.C. § 119(e)**

NOTE: "Any nonprovisional application claiming the benefit of one or more prior filed copending provisional applications must contain or be amended to contain in the first sentence of the specification following the title a reference to each such prior provisional application, identifying it as a provisional application, and including the provisional application number (consisting of series code and serial number)." 37 C.F.R. § 1.78(a)(4).

- ☐ "This application claims the benefit of U.S. Provisional Application(s) No(s):

**APPLICATION NO(S): FILING DATE**

\_\_\_\_\_/\_\_\_\_\_"

\_\_\_\_\_/\_\_\_\_\_"

\_\_\_\_\_/\_\_\_\_\_"

**B. 35 U.S.C. Sections 120, 121 and 365(c)**

NOTE: "Except for a continued prosecution application filed under § 1.53(d), any nonprovisional application claiming the benefit of one or more prior filed copending nonprovisional applications or international applications designating the United States of America must contain or be amended to contain in the first sentence of the specification following the title a reference to each such prior application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. . . . Cross-references to other related applications may be made when appropriate." (See § 1.14(a)). 37 C.F.R. § 1.78(a)(2).

- ☒ "This application is a
- ☐ continuation
  - ☒ continuation-in-part
  - ☐ divisional

of copending application(s)

- ☒ application number 08/996,976 filed on 12/23/97"
- ☐ International Application \_\_\_\_\_ filed on \_\_\_\_\_ and which designated the U.S."
- ☐ The international application was published under PCT Article 21(2) in English (37 C.F.R. § 1.78(a)(2))

NOTE: The proper reference to a prior filed PCT application that entered the U.S. national phase is the U.S. serial number and the filing date of the PCT application that designated the U.S.

NOTE: (1) Where the application being transmitted adds subject matter to the International Application, then the filing can be as a continuation-in-part or (2) if it is desired to do so for other reasons then the filing can be as a continuation.

NOTE: The deadline for entering the national phase in the U.S. for an international application was clarified in the Notice of April 28, 1987 (1079 O.G. 32 to 46) as follows:

"The Patent and Trademark Office considers the International application to be pending until the 22nd month from the priority date if the United States has been designated and no Demand for International Preliminary Examination has been filed prior to the expiration of the 19th month from the priority date and until the 32nd month from the priority date if a Demand for International Preliminary Examination which elected the United States of America has been filed prior to the expiration of the 19th month from the priority date, provided that a copy of the international application has been communicated to the Patent and Trademark Office within the 20 or 30 month period respectively. If a copy of the international application has not been communicated to the Patent and Trademark Office within the 20 or 30 month period respectively, the international application becomes abandoned as to the United States 20 or 30 months from the priority date respectively. These periods have been placed in the rules as paragraph (h) of § 1.494 and paragraph (l) of § 1.495. A continuing application under 35 U.S.C. 365(c) and 120 may be filed anytime during the pendency of the international application."

- ☐ "The nonprovisional application designated above, namely application \_\_\_\_\_/\_\_\_\_\_, filed \_\_\_\_\_, claims the benefit of U.S. Provisional Application(s) No(s).:

APPLICATION NO(S):	FILING DATE
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_____/_____	_____"
_____/_____	_____"
_____/_____	_____"

- ☐ Where more than one reference is made above please combine all references into one sentence.



**18. Relate Back—35 U.S.C. § 119 Priority Claim for Prior Application**

The prior U.S. application(s), including any prior International Application designating the U.S., identified above in item 17B, in turn itself claim(s) foreign priority(ies) as follows:

Country	Appln. No.	Filed
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The certified copy(ies) has (have)

- ☐ been filed on \_\_\_\_\_, in prior application 0 / \_\_\_\_\_,  
which was filed on \_\_\_\_\_
- ☐ is (are) attached.

**WARNING:** *The certified copy of the priority application that may have been communicated to the PTO by the International Bureau may not be relied on without any need to file a certified copy of the priority application in the continuing application. This is so because the certified copy of the priority application communicated by the International Bureau is placed in a folder and is not assigned a U.S. serial number unless the national stage is entered. Such folders are disposed of if the national stage is not entered. Therefore, such certified copies may not be available if needed later in the prosecution of a continuing application. An alternative would be to physically remove the priority documents from the folders and transfer them to the continuing application. The resources required to request transfer, retrieve the folders, make suitable record notations, transfer the certified copies, enter and make a record of such copies in the Continuing Application are substantial. Accordingly, the priority documents in folders of international applications that have not entered the national stage may not be relied on. Notice of April 28, 1987 (1079 O.G. 32 to 46).*

**19. Maintenance of Copendency of Prior Application**

**NOTE:** *The PTO finds it useful if a copy of the petition filed in the prior application extending the term for response is filed with the papers constituting the filing of the continuation application. Notice of November 5, 1985 (1060 O.G. 27).*

- A. ☐ Extension of time in prior application

*(This item must be completed and the papers filed in the prior application, if the period set in the prior application has run.)*

- ☐ A petition, fee and response extends the term in the pending prior application until \_\_\_\_\_
- ☐ A copy of the petition filed in prior application is attached.

- B. ☐ Conditional Petition for Extension of Time in Prior Application

*(complete this item, if previous item not applicable)*

- ☐ A conditional petition for extension of time is being filed in the pending prior application.
- ☐ A copy of the conditional petition filed in the prior application is attached.

**20. Further Inventorship Statement Where Benefit of Prior Application(s) Claimed**

*(complete applicable item (a), (b) and/or (c) below)*

- (a) ☐ This application discloses and claims only subject matter disclosed in the prior application whose particulars are set out above and the inventor(s) in this application are
- ☐ the same.
  - ☐ less than those named in the prior application. It is requested that the following inventor(s) identified for the prior application be deleted:

\_\_\_\_\_  
*(type name(s) of inventor(s) to be deleted)*

- (b) ☒ This application discloses and claims additional disclosure by amendment and a new declaration or oath is being filed. With respect to the prior application, the inventor(s) in this application are
- ☒ the same.
  - ☐ the following additional inventor(s) have been added:

\_\_\_\_\_  
*(type name(s) of inventor(s) to be deleted)*

- (c) ☐ The inventorship for all the claims in this application are
- ☐ the same.
  - ☐ not the same. An explanation, including the ownership of the various claims at the time the last claimed invention was made
  - ☐ is submitted.
  - ☐ will be submitted.

**21. Abandonment of Prior Application (if applicable)**

- ☐ Please abandon the prior application at a time while the prior application is pending, or when the petition for extension of time or to revive in that application is granted, and when this application is granted a filing date, so as to make this application copending with said prior application.

**NOTE:** According to the Notice of May 13, 1983 (103, TMOG 6-7), the filing of a continuation or continuation-in-part application is a proper response with respect to a petition for extension of time or a petition to revive and should include the express abandonment of the prior application conditioned upon the granting of the petition and the granting of a filing date to the continuing application.

**22. Petition for Suspension of Prosecution for the Time Necessary to File an Amendment**

**WARNING:** "The claims of a new application may be finally rejected in the first Office action in those situations where (A) the new application is a continuing application of, or a substitute for, an earlier application, and (B) all the claims of the new application (1) are drawn to the same invention claimed in the earlier application, and (2) would have been properly finally rejected on the grounds of art of record in the next Office action if they had been entered in the earlier application." M.P.E.P. § 706.07(b), 7th ed.

**NOTE:** Where it is possible that the claims on file will give rise to a first action final for this continuation application and for some reason an amendment cannot be filed promptly (e.g., experimental data is being gathered) it may be desirable to file a petition for suspension of prosecution for the time necessary.

*(check the next item, if applicable)*

- ☐ There is provided herewith a Petition To Suspend Prosecution for the Time Necessary to File An Amendment (New Application Filed Concurrently)